

INDIANA RULES OF TRIAL PROCEDURE

Rule 32. Use of depositions in court proceedings

(A) Use of depositions. At the trial, the use of depositions shall be governed by the Rules of Evidence. ~~Upon~~ ~~or upon~~ the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition, by or against any party who had reasonable notice thereof or by any party in whose favor it was given in accordance with any one [1] of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party, or an agent or person authorized by a party to testify or furnish such evidence or of anyone who at the time of taking the deposition was an officer, director, or managing agent, executive officer or a person designated under Rule 30(B)(6) or 31(A) to testify on behalf of an organization, including a governmental organization, or partnership which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:

- (a) that the witness is dead; or
- (b) that the witness is outside the state, unless it appears that the absence of the witness was procured by the party offering the deposition; or
- (c) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or
- (d) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or
- (e) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used; or
- (f) upon agreement of the parties.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in context to be considered with the part introduced, and any party may introduce any other parts.

Substitution of parties pursuant to Rule 25 does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject-matter is afterward brought between the same parties or their representatives or successors in

interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

(B) Objections to admissibility. Subject to the provisions of Rule 28(B) and subdivision (D)(3) of this rule, objection may be made at the ~~trial or~~ hearing to receiving in evidence any depositions or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(C) Effect of taking or using depositions. A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in subdivision (A)(2) of this rule. At the ~~trial or~~ hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

...